

## REMARKS

Applicants respectfully request the Examiner's reconsideration of the present application. No claims have been cancelled. No claims have been amended. No claims have been added. Therefore, claims 1-61 are presented for examination.

### **Rejections Under 35 U.S.C. §103(a)**

#### *Gerlach, Jr. in view of Filo*

Claims 1-6, 9-14, 16-53 and 55-60 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gerlach, Jr. et al., U.S. Patent No. 6,484,189 ("Gerlach") in view of Filo et al., U.S. Patent No. 6,215,498 ("Filo"). Filo only qualifies as prior art under 35 U.S.C. §102(e) because its issue date is after Applicant's filing date. Accordingly, Applicant hereby reserves the right to swear behind Filo in the subsequent prosecution of the present application. Applicant respectfully submits that the present claims are patentable over the combination of Gerlach and Filo.

Gerlach discloses a computer system for creating and presenting interactive multimedia presentations and coursework. An expression editor is used to define variables and expressions used in a presentation. An assignment expression is an expression in which the presentation requests that the system assign a value to a variable, for example SCORE=100. The presentation subsequently can refer to the variable SCORE in a conditional expression to control the flow of the presentation. Gerlach further discloses icons which represent an action to be performed at the time of the presentation's evaluation. The icons invoke a general type of action, e.g. playback of an animation file, which must be individually defined by the user. An animation icon is further disclosed that is used to invoke the play back of an animation file that has been created in a conventional paint or animation software application.

Filo discloses a system for creating a three dimensional animated work environment wherein users are depicted as animated characters ("avatars") in the virtual work environment. A database stores information and graphics supporting the appearance of the avatars that populate the virtual work environment.

Applicant respectfully submits that there is no motivation to combine Gerlach and Filo as suggested by the Examiner. The Examiner's suggested motivation for combining Gerlach and Filo was "to improve the visual work environment to help a user to easily control and interact with the objects." Gerlach is directed to creating interactive multimedia presentations. Filo is directed to emulating people in a virtual work environment. There is nothing in either reference, or in the art as a whole, that would motivate one of skill in the art to combine tools for creating multimedia presentations as taught by Gerlach, with emulating military command through a virtual environment as taught by Filo. Therefore, the combination is improper since there is no motivation to combine the cited references.

Even if Gerlach and Filo were properly combined, Applicant respectfully submits that the combination does not teach or suggest each and every limitation of the claims. In the present Office Action, the Examiner has admitted that Gerlach does not teach "using an animated icon to determine a set of quality-related problems of the image." (Office Action, p. 3, lines 13-14, emphasis added). While Applicant agrees with the Examiner's characterization of Gerlach, Applicant respectfully submits that the Examiner has mischaracterized Applicant's claims. Independent claims 1, 9 and 16-18, 24, 32, 40, 46 and 55 include the limitations of (1) determining a set of quality-related problems of an image, and (2) indicating a suggested user response to one of said set of quality-related problems with an animated icon.

Gerlach does not teach or suggest the limitation of determining a set of quality-related problems of an image, as claimed. The Examiner has asserted that the variable SCORE disclosed by Gerlach represents a set of quality-related problems. However, Gerlach uses the expression editor to set variables, such as the SCORE variable, for later use by conditional expressions. Gerlach does not describe that the particular variable "SCORE" represents a set of quality-related problems of an image. Thus, determining a set of quality-related problems as claimed is neither taught nor suggested by Gerlach.

Additionally, Gerlach does not teach or suggest the limitation of indicating a suggested user response to one of said set of quality-related problems with an

animated icon. The “animation icon” disclosed by Gerlach is not an animated icon, as claimed, because the “animation icon” only represents an action to be performed when the icon is clicked, but the “animation icon” itself is not disclosed as being animated.

Applicant respectfully submits that Filo does not teach or suggest the limitation of determining a set of quality-related problems of an image. The Examiner has asserted that Filo’s avatars determine changes of video and audio information. However, Filo’s avatars are merely graphical depictions of users in the virtual work environment. Filo does not teach or suggest that the avatars determine a set of quality-related problems of an image. Filo also does not teach or suggest the claimed limitation of indicating a suggested user response to one of said set of quality-related problems with an animated icon. The avatars are merely animated characters representing users in the virtual work environment; the avatars do not indicate suggested responses to quality-related problems of an image.

Therefore, neither Gerlach, Filo, nor the combination teach or suggest Applicant’s claimed limitations. Accordingly, Applicant respectfully submits that independent claims 1, 9 and 16-18, 24, 32, 40, 46 and 55 and claims 2-6, 10-14, 19-23, 25-31, 33-39, 41-45, 47-53 and 56-60 are not rendered obvious by the combination of Gerlach and Filo, and requests the withdrawal of the rejection of the claims under 35 U.S.C. §103(a).

*Gerlach, Jr. in view of Filo and Herz*

Claims 7, 8, and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gerlach in view of Filo and further in view of Herz et al., U.S. Patent No. 5,835,087 (“Herz”). Applicant respectfully submits that the present claims are patentable over the combination of Gerlach, Filo and Herz.

Herz is directed to transmitting advertisements and electronic payments. Claims 7, 8 and 15 depend from independent claims 1 and 9. As discussed above, the combination of Gerlach and Filo does not teach or suggest the limitations of independent claims 1 and 9. Applicant respectfully submits that Herz also does not teach or suggest the claimed limitations that are missing from the combination of

Gerlach and Filo. Herz is directed to electronic payment mechanisms for advertising, and does not teach or suggest determining a set of quality-related problems of an image. Therefore, neither Gerlach, Filo, Herz, nor the combination teaches or suggests the claimed limitations. Accordingly, claims 7, 8 and 15 are patentable over the combination, and Applicant respectfully requests withdrawal of the rejection of the claims under 35 U.S.C. §103(a).

*Gerlach, Jr. in view of Filo and Hasegawa*

Claims 54 and 61 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gerlach in view of Filo and further in view of Hasegawa et al., U.S. Patent No. 6,169,854 ("Hasegawa"). Applicant respectfully submits that the present claims are patentable over the combination of Gerlach, Jr., Filo and Hasegawa.

Hasegawa discloses a synthesized voice to provide information that is not fully displayed on a display unit of a camera. The camera displays explanations and warnings regarding the camera's functions and titles on a display unit. An icon in the display unit is moved according to an 'operating mode' selected by a user, and when a 'title mode' is selected, abbreviated characters are displayed.

Claims 54 and 61 depend from independent claims 46 and 55. As discussed above, the combination of Gerlach and Filo does not teach or suggest the limitations of independent claims 46 and 55. Applicant respectfully submits that Hasegawa also does not teach or suggest the claimed limitations that are missing from the combination of Gerlach and Filo. Hasegawa is directed to using a synthesized voice to communicate camera functions or operating modes, and does not teach or suggest determining a set of quality-related problems of an image. Therefore, neither Gerlach, Filo, Hasegawa, nor the combination teaches or suggests the claimed limitations. Accordingly, claims 54 and 61 are patentable over the combination, and Applicant respectfully requests withdrawal of the rejection of the claims under 35 U.S.C. §103(a).

### Conclusion

Applicant respectfully submits that in view of the amendments and discussion set forth herein, the applicable rejections have been overcome and the pending claims are in condition for allowance.

If the Examiner determines the prompt allowance of the claims could be facilitated by a telephone conference, the Examiner is invited to contact Scott Heilesen at (408) 720-8300.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 10/4/04, 2004

  
\_\_\_\_\_  
Jeffery Scott Heilesen  
Reg. No. 46,765

12400 Wilshire Blvd.  
Seventh Floor  
Los Angeles, CA 90025  
(408) 720-8300